

18 CS DJ 58-19

SANDEEP SAINI Vs. M-S ALPHA RADIOS

17.04.2025

Present:- Sh. Amit Sharma and Ms. Yamini Sharma, Ld.
Counsel for plaintiff along with plaintiff in person.
Sh. Vishal Saxena and Ms. Navjot Kaur, Ld.
Counsel for defendants.
Sh. Rajesh Kumar and Sh. Gaurav, AR/witnesses of
defendant.

1. Two applications under Section 151 CPC are pending for substitution of AR on behalf of defendant no. 1 and 4.

2. As far as the application of defendant no. 4 is concerned, Ld. Counsel for defendant no. 4 submits that the same is supported by the authority letter given by the directors and he will file appropriate board resolution authorizing the present AR on behalf of the defendant no. 4.

3. With regards to the application for substitution of AR of defendant no. 1, it is submitted by Ld. Counsel for defendants that defendant no. 1 is a partnership firm and the partners of the firm have authorized one Sh. Rajesh Kumar, an employee of defendant no. 1 to be the authorized representative of the defendant no. 1 and to lead evidence on behalf of defendant no. 1. He has submitted that this is a formal application authorizing the AR to lead evidence and the same may be allowed as the defendant no. 1 being a partnership cannot give evidence itself. It is further submitted that the plaintiff cannot compel the defendant no. 1 as to who can be the AR on behalf of the defendant no. 1.

4. Per contra, Ld. Counsel for plaintiff has submitted that the application cannot be allowed as the knowledge regarding the present dispute is with the partner and not the AR and as such only the partner can be arrayed as a witness and not the AR of defendant no. 1. He has further submitted that the partner of the defendant no. 1 should appear as a witness and not the AR.

5. Heard. Perused.

6. It is an admitted fact of the parties that defendant no. 1 is a partnership firm and the same cannot appear itself and some person has to be authorized to represent defendant no. 1. It has to be a choice of defendant no. 1 to decide who will be leading evidence on behalf of the defendant no. 1 and the plaintiff cannot compel any particular person of defendant no. 1 to be the AR of defendant no. 1. Further, whether the witness has the knowledge of the transaction or not as a matter of fact and cannot be decided while deciding this application.

7. In view of the same, the present application is allowed and Sh. Rajesh Kumar, AR of defendant no. 1 is taken on record.

8. Evidence has already been filed on behalf of the present AR of defendant no. 1. Same is also taken on record.

9. List for cross examination of witness on **11.07.2025**.

(Rahul Bhatia)
DJ-1 (South-East), Saket Court
New Delhi/17.04.2025(sk)